IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1908 OF 2007

Rolta India Limited : Petitioner

versus

Shri Ravi Laxman More & ors. : Respondents.

Mr.C.U.Singh, Sr.Counsel a/w Raghunath Harmalkar and Soma Singh i/by Arvind Rathod & Co. for the Petitioner.

Ms.Nutan Mauly i/by Mr.Santosh Shetty for Respondent No.1.

Mrs.S.M.Dandekar, AGP, for Respondent Nos.2 & 3.

CORAM : A.M.KHANWILKAR, J.

DATED : DECEMBER 07, 2007.

P.C.

1. Heard counsel for the parties. Rule. By consent Rule made returnable forthwith. Learned counsel appearing for Respondent No.1 waives service for Respondent No.1. Notice to

Respondent Nos.2 and 3 is dispensed with being formal parties. By consent the matter is proceeded with for final disposal forthwith.

2. This petition takes exception to the judgment and order passed by the Industrial Court, Mumbai dated 14th June 2007 in Revision Application (ULP) No.246 of 2005 arising out of the order passed by the Labour Court dated 24th August 2005 in Complaint (ULP) No.608 of 1999.

3. A short question that arises for consideration is, whether the view taken by the courts below can be sustained which is founded on the decision of the Apex Court which has been expressly overruled by the Larger Bench of the Apex Court at later point of time. Both the counsel fairly accept that the decision on the basis of which the courts below have proceeded to answer the issue has been subsequently reversed by the Larger Bench of the Apex Court. If it is so, the basis on which the courts below proceeded to examine the matter being erroneous, the conclusions reached by the courts below will have to be overturned on that ground. Instead of examining the controversy brought by the parties

before the court for the first time applying the decision of the Larger Bench of the Apex Court in the case of **High Court of Madhya Pradesh v. Satya Narayan Jhavar,** reported in **AIR 2001 SC 3234.** The appropriate course is, the parties are relegated before the 1st Court i.e. the Labour Court Mumbai who shall decide the entire matter afresh keeping in mind the law expounded by the Apex Court in Satya Narayan Jhavar's case (supra).

4. Accordingly, the impugned judgement and order passed by the Industrial Court, Mumbai dated 14th June 2007 in Revision Application (ULP) No.246 of 2005 as well as the decision of the Labour Court, Mumbai dated 24th August 2007 in Complaint (ULP) No.608 of 1999 are set aside and instead the parties are relegated before the Labour Court, Mumbai for adjudication of the Complaint (ULP) No.608 of 1999 afresh on its own merits in accordance with the law and observations made in earlier part of this order.

5. As the matter pertains to year 1999, the Labour Court, Mumbai is directed to dispose of the proceedings finally as expeditiously as

possible and preferably by the end of April 2008. The parties shall appear before the Labour Court, Mumbai on 18th December 2007 at 11.00 a.m. on which date the Labour Court may assign suitable date for hearing of the matter while ensuring that the entire proceedings will have to be concluded within specified time.

6. In view of this order, the Petitioner will be free to withdraw the amount already deposited in this Court in terms of order dated 16th October 2007 on condition that they shall file an affidavit of undertaking of an authorised person to the effect that as and when the court of competent jurisdiction so orders, the withdrawn amount or such other amount, as may be ordered, will be deposited by them in concerned court within specified time. Oral undertaking given by the Petitioner through the counsel is accepted. Even then the Petitioner shall file their affidavit of undertaking on the above terms which is a condition precedent for permitting withdrawal of the amount.

7. The Petition stands disposed off accordingly.

[A.M.KHANWILKAR, J]